

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Southern California Edison Company (U 338-E) for a Commission Finding that its Procurement-Related and Other Operations for the Record Period July 1 Through December 31, 2003 Complied with its Adopted Procurement Plan; for Verification of its Entries in the Energy Resource Recovery Account; for Recovery of a Nuclear Unit Incentive Reward of \$9.7 million; and for Recovery of \$4.9 Million Recorded in the Electric Energy Transaction Administration Memorandum Account.

Application 04-04-005
(Filed April 1, 2004)

**ADMINISTRATIVE LAW JUDGE'S RULING
ON MOTIONS FOR LEAVE TO FILE UNDER SEAL
AND APPROVAL OF A PROTECTIVE ORDER**

By its April 1, 2004 motion, Southern California Edison Company (SCE) moves for leave to file under seal certain information contained in its Exhibit SCE-1 and SCE-2 tendered under seal with its application, pursuant to Public Utilities Code Section 583 and General Order 66-C.

By a companion motion, SCE seeks a protective order to ensure that its sealed information including computer models, algorithms, and assumptions relied on in developing its testimony and any subsequent information it deems confidential or proprietary remain confidential. Attached to that companion motion was a proposed protective agreement (agreement) to govern access and use of all SCE protected information and computer program materials in this proceeding.

There is no filed opposition to these motions. A public hearing on these motions is not needed.

The granting of SCE's motion to seal confidential information included in its Exhibit SCE-1 and SCE-2 would not prejudice any party because SCE would provide Commission staff access to the confidential information and SCE would provide interested parties access to such information upon the signing of a protective agreement. This motion is granted and the information tendered under seal shall remain under seal as set forth in this ruling.

SCE's motion to require interested parties to sign a protective order to access computer models including algorithms and assumptions SCE relied on in developing its testimony covered by a license agreement or deemed proprietary is consistent with Article 17.1 of the Commission's Rules of Practice and Procedure. However, approval of the proposed agreement would impose conditions on non-signatories of that agreement, the Commission and its staff. For example, Section 3(g) sets forth activities the Commission's Energy Division Director or designee is to participate in this proceeding and the process the assigned Administrative Law Judge (ALJ) is to follow in resolving disputes regarding access to confidential information, Section 26 identifies how the assigned ALJ is to manage signed protective agreements. In addition, Section 28 sets forth a procedure for the Commission and its staff to return all protected computer program materials to SCE and to certify to SCE that notes and other material have been destroyed.

It is not reasonable to adopt a proposed agreement that sets forth requirements for the Commission and its staff to follow, particularly since the Commission and its staff is already bound by Section 583 and will not be signatories to that agreement. The proposed agreement is not adopted.

However, consistent with Article 17.1, SCE should execute a mutually agreed upon agreement with any party other than Commission staff wanting to access sealed data, and computer models including algorithms and assumptions SCE relied on in developing its testimony covered by a license agreement or deemed confidential. To the extent that parties cannot agree on a reasonable agreement, the assigned ALJ shall upon receipt of a motion resolve any disputes.

Good cause appearing, **IT IS RULED** that:

1. The motion of Southern California Edison Company (SCE) for leave to file under seal commercially sensitive information contained in its Exhibit No. SCE-1 and SCE-2 Testimony and Exhibits is granted.

2. Portions of Exhibit No. SCE-1 and SCE-2, submitted as a sealed document with SCE's application, shall remain under seal and shall not be made accessible or disclosed to anyone other than Commission staff except on the execution of a mutually acceptable protective agreement or on further order or ruling of the Commission, Administrative Law Judge (ALJ), or the ALJ then designated as the Law and Motion Judge.

3. SCE shall provide any confidential information to the Commission staff under the protection of Public Utilities Code Section 583.

4. SCE shall execute a mutually agreed upon protective agreement with any party, other than Commission staff, wanting access to sealed information and computer models including algorithms and assumptions SCE relied on in developing its testimony covered by a license agreement or deemed confidential. The assigned ALJ shall upon receipt of a motion resolve any disputes.

Dated May 5, 2004, at San Francisco, California.

/s/ MICHAEL J. GALVIN
Michael J. Galvin

Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling On Motions for Leave to File Under Seal and Approval of a Protective Order on all parties of record in this proceeding or their attorneys of record.

Dated May 5, 2004, at San Francisco, California.

/s/ ELIZABETH LEWIS

Elizabeth Lewis

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at

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(415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.